

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA

AUGUSTA DIVISION

FILED  
U.S. DISTRICT COURT  
AUGUSTA DIV.

2005 DEC 13 AM 8:20

CLERK *L. DeBenedictis*  
SO. DIST. OF GA.

CHARLES HARPER,

Plaintiff,

v.

BILLY NICHOLS,

Defendant.

CV 105-22

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**MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

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Plaintiff proceeding pro se in this Title 42, United States Code, Section 1983 action has filed a motion for entry of default judgment against defendant Nichols. Doc. 37. Plaintiff seeks entry of default judgment on the ground that defendant has not filed an answer to his complaint. Defendant, however, did file a timely answer to plaintiff's complaint on November 28, 2005.<sup>1</sup> Doc. 43. Accordingly, the Court **REPORTS** and **RECOMMENDS** that plaintiff's motion for entry of default judgment, Doc. 37, be **DENIED**.

SO REPORTED and RECOMMENDED this 13th day of December, 2005, at Augusta, Georgia.

*W. Leon Barfield*  
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W. LEON BARFIELD  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup>The United States Marshal effected service of process on defendant on November 7, 2005. Doc. 41. Under Rule 12 of the Federal Rules of Civil Procedure, a defendant is required to answer a complaint within twenty days of service. Because November 27, 2005, twenty days from the date of service, was a Sunday, defendant had until November 28 to file an answer.